

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

A Limited Liability Partnership

2 Including Professional Corporations

NEIL A.F. POPOVIC, Cal. Bar No. 132403

3 ANNA S. McLEAN, Cal. Bar No. 142233

TENAYA RODEWALD, Cal. Bar No. 248563

4 LIEN H. PAYNE, Cal. Bar No. 291569

JOY O. SIU, Cal. Bar No. 307610

5 DANIEL R. FONG, Cal. Bar No. 311985

Four Embarcadero Center, 17th Floor

6 San Francisco, California 94111-4109

Telephone: 415.434.9100

7 Facsimile: 415.434.3947

Email: npopovic@sheppardmullin.com

8 amclean@sheppardmullin.com

rodewald@sheppardmullin.com

9 lpayne@sheppardmullin.com

jsiu@sheppardmullin.com

10 dfong@sheppardmullin.com

11 Attorneys for Defendant,

SEAGATE TECHNOLOGY LLC

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

16 IN RE SEAGATE TECHNOLOGY LLC
LITIGATION

18 CONSOLIDATED ACTION

Case No. 3:16-cv-00523-JCS

**[PROPOSED] ORDER GRANTING
ADMINISTRATIVE MOTION TO SEAL
PORTIONS OF PLAINTIFFS' SECOND
SUPPLEMENTAL BRIEF IN FURTHER
SUPPORT OF MOTION FOR CLASS
CERTIFICATION**

Date: June 15, 2018

Time: 9:30 a.m.

Place: Courtroom G

Judge: Hon. Joseph C. Spero

Second Consolidated Amended Complaint
filed: July 11, 2016

1 The Court has reviewed the Administrative Motion to File Documents Under Seal filed in
 2 connection with Plaintiffs' Supplemental Brief in Support of Class Certification and related
 3 documents. ECF No. 175. It has also reviewed the Declaration of Karl J. Schweiss (Schweiss
 4 Declaration) filed by Seagate Technology LLC (Seagate) in Support of the Administrative Motion
 5 to Seal on June 11, 2018. The Court rules as follows:

6 A party seeking to seal filed documents must "(1) comply with Civil Local Rule 79-5; and
 7 (2) rebut the [] strong presumption in favor of access that applies to all documents other than
 8 grand jury transcripts or pre-indictment warrant materials." *Gaudin v. Saxon Mortg. Servs.*, No.
 9 11-cv-01663-JST, 2013 WL 2631074, at *1, 2 (N.D. Cal. June 11, 2013) (internal citations
 10 and quotations omitted).

11 First, the party seeking to seal the documents must establish that (1) "the document or
 12 portions thereof is privileged or protectable as a trade secret or otherwise entitled to protection
 13 under the law; and (2) is narrowly tailored to seek sealing only of sealable material." *Id.* (citing
 14 Civil L.R. 79-5).

15 Second, the party seeking to seal the documents must satisfy the showing required for
 16 overcoming the strong presumption of access; this showing "depends on the type of motion to
 17 which the document is attached." *Id.* With regard to non-dispositive motions, the Ninth Circuit
 18 has "carved out an exception to the presumption of access to judicial records[,]" and those records
 19 may be filed under seal upon a showing of "good cause." *In re Midland Nat. Life Ins. Co. Annuity*
 20 *Sales Practices Litig.*, 686 F.3d 1115, 1119 (9th Cir. 2012) (per curiam) (internal quotation marks
 21 and citation omitted); *Pintos v. Pac. Creditors Ass'n*, 605 F.3d 665, 678 (9th Cir. 2010) (applying
 22 "good cause" standard to all non-dispositive motions because such motions "are often unrelated,
 23 or only tangentially related, to the underlying cause of action") (internal quotation marks and
 24 citation omitted). "[T]he vast majority of other courts within this circuit" apply the "good cause"
 25 standard to sealing documents filed in connection with a Motion for Class Certification. *See In re*
 26 *High-Tech Emp. Antitrust Litig.*, No. 5:11-cv-02509-LHK, 2013 WL 5486230, at *2 n.1 (N.D.
 27 Cal. Sept. 30, 2013) (collecting cases); *Gaudin*, 2013 WL 2631074, at *2 (same); *Dugan v. Lloyds*
 28 *TSB Bank, PLC*, No. 12-cv-02549-WHA (NJV), 2013 WL 1435223, at *1 (N.D. Cal. Apr. 9,

2013) (“Unless the denial of a motion for class certification would constitute the death knell of a case, ‘the vast majority of courts within this circuit’ treat motions for class certification as non-dispositive standard applies”) (internal formatting omitted).

The confidential information proposed to be filed under seal satisfies this two-part test. First, the requested portions to be sealed are narrowly tailored to only portions of documents or documents “privileged or protectable as a trade secret or otherwise entitled to protection under the law.” L.R. 79-5(b). Second, as shown by the Schweiss Declaration, good cause exists to protect Seagate from the disclosure of its confidential and sensitive business information, because such disclosure could cause competitive harm to Seagate.

GOOD CAUSE APPEARING THEREFOR, the Administrative Motion to Seal is GRANTED. The documents identified below shall remain filed under seal:

Document Filed Under Seal by Plaintiffs	Portion(s) Sought To Be Sealed
Exhibits to Declaration of Shana Scarlett, ECF No. 175-5	Exhibits 72-77 (ECF Nos. 175-6 through 175-11)
Portions of Plaintiffs’ Second Supplemental Brief in Support of Motion for Class Certification, ECF Nos. 175-3, 175-4	Redacted Portions of MPA

IT IS SO ORDERED.

DATED: _____, 2018

HON. JOSEPH C. SPERO
UNITED STATES MAGISTRATE JUDGE